

ARIZONA STATE PLANNING REPORT

**Submitted to the Legal Service Corporation
September 30, 1998
by the Legal Services Committee
of the State Bar of Arizona**

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I. INTRODUCTION

The Legal Services Committee of the State Bar of Arizona is pleased to submit Arizona=s State Planning Report. This Report is submitted in response to Legal Services Corporation (ALSC@) Program Letter 98-1 dated February 12, 1998, and represents an analysis of Arizona=s current statewide delivery system and the steps necessary to continue to develop a comprehensive, integrated statewide delivery system. Following this introductory Part I, Part II of the Report briefly describes the background of legal services in Arizona, and the configuration of the legal service providers. Part III of the Report describes the Arizona state planning process and the participants in that process. Part IV addresses the seven separate areas identified in LSC Program Letter 98-1, and provides an analysis of the current Arizona system, goals to improve the system, and the steps necessary to accomplish these goals.

Before addressing the items set forth in Program Letter 98-1, the Committee would like to express its concern regarding the end-result of the state planning process. Committee members have been told by various representatives from LSC that there almost certainly will be a change in the configuration of federally funded programs in Arizona, regardless of the contents of this report. Indeed, the configuration issue has dominated the discussion and development of this document. The Committee has been careful to consider all of the issues, including the configuration issue, from the standpoint of what will facilitate the most effective delivery of legal services in the future. During this process, the Committee has been also been careful to avoid a result-oriented approach, and the configuration alternatives discussed and conclusions reached in Part IV below reflect this approach. Members of the Committee have expressed concern that LSC may not follow the same open approach on the configuration issue. The Committee asks that LSC engage in the same open-minded approach as undertaken by this Committee, consider the contents of this report and any follow up before making a determination regarding configuration.

II. LEGAL SERVICES IN ARIZONA

A. Arizona Geography and Demographics

Arizona is the sixth largest state in the United States and covers 113,995 square miles. The southern half of the state is covered by desert where temperatures of 100+ are common for four months of every year. The other half of the state includes Mt. Humphrey, with an elevation of 12,670 feet, and one of the world's natural wonders, the 227-mile long Grand Canyon. Bordered by Mexico on the south, California and Nevada to the west, Utah to the north and New Mexico to the east, Arizona has a diverse population, many of whom speak a language other than English as their first or only language. Total migrant and seasonal farm worker population during any given year is more than 99,000. Arizona has the largest on reservation Native American population of any state in the U.S. with twelve of Arizona's fifteen counties containing reservation for twenty-two registered tribes. Reservation land covers over 24 million acres and is home to over 20,000 Native Americans.

B. The Configuration of Legal Service Providers

Arizona has a long history of delivery of legal services to the poor. This history is set out at length in Arizona's 1996 State Plan For Delivery Of Legal Services (A1996 State Plan@). As set forth in the 1996 State Plan, after years of local efforts by bar associations and members of the private bar, federal funds permitted the establishment of legal aid programs throughout the state, each a locally created, locally controlled entity which tailored its services to the client base it served. Prior to 1994, there were seven federally funded legal services programs in Arizona. The service areas of these programs encompassed every county in the State.

In 1994, one of the existing seven programs, Ft. Apache Legal Aid, merged with Southern Arizona Legal Aid, another of the established LSC funded providers. Similarly, in 1996

Coconino Legal Aid merged with and became part of DNA-People=s Legal Services. Thus, today in Arizona there are five LSC funded programs. In addition, there are numerous non-LSC funded providers throughout the state. The five LSC funded programs are:

1. Community Legal Services (ACLS@)

CLS is a not-for-profit law firm providing legal assistance and access to the civil justice system to the general low income populations of Maricopa, Mohave, Yavapai, Yuma and La Paz counties and farm workers who live or work within the state boundaries. According to the 1990 Census report, the low income population of these counties is 309,143. Data supplied by the Department of Agriculture and the Farm Bureau indicates that more than 125,000 farm workers work or reside in Arizona during any given year. To serve this ever increasing population CLS maintains a staff of sixty-seven, twenty-one of whom are full time practicing lawyers and eighteen are full-time paralegals. In 1997 CLS closed 10,156 cases.

2. DNA-People=s Legal Services (ADNA@)

DNA is the only provider of free general legal services to the poor in Coconino County and in the on-reservation portions of Navajo and Apache Counties. DNA has six offices in Arizona, including its central administration. DNA=s Arizona service area contains more than 100,000 eligible clients including the residents of the Navajo Nation, Hopi, Hualapai, Kaibab-Paiute, and Havasupai reservations. DNA has a total of sixty employees in the state including ten attorneys and eleven tribal court advocates or paralegals. In 1997, DNA=s Arizona offices closed 4,452 cases.

3. Papago Legal Services (APLS@)

PLS serves all financially eligible residents of the Tohono O=odham Reservation (an area the size of the State of Connecticut), and also provides services to off-reservation Tohono O=odham tribal members throughout central and southern Arizona on matters which relate to their tribal status. PLS has been serving clients from a single, centralized office on-reservation

since 1967. It is governed by a Board of Directors, 86% of whom are community members, and its staff includes three individuals with a combined sixty-three years= experience providing legal services while living among the client community. PLS closed 670 cases in 1997.

4. Pinal & Gila Counties Legal Aid Society (APGCLAS@)

PGCLAS has been serving poor persons for thirty years. PGCLAS provides services to over 34,000 basic field, 14,000 Native American clients and to 45,000 migrant farm workers throughout Arizona. PGCLAS has fifteen paid staff and six to eight volunteers.

The PGCLAS service area is sandwiched between two major metro areas - Phoenix and Tucson. PGCLAS has some eighteen small towns in its service area. Many of these towns have heavy mining industries or agricultural industries.

PGCLAS provided legal services to 2,357 eligible clients in 1996 and 2,469 in 1997. This continued a five year trend of providing more services while funding was decreasing. This is over sixty cases per \$10,000 in funding. Over \$2.6 million in benefits and damages were recovered for clients between 1994 and 1996.

5. Southern Arizona Legal Aid (ASALA@)

SALA operates from ten offices with approximately seventy employees including thirty attorneys. SALA has recruited over 500 lawyers who provided pro bono services valued at over \$565,000 in 1997. In addition, SALA earns and spends approximately \$2.5 million annually.

In 1997 SALA closed cases for a total of 7,938 clients with an average family size of 2.75 which resulted in at least 21,909 lives affected. SALA successfully balanced a fully integrated basic field and Native American program. SALA offers services to more than 200,000 eligible clients living in urban Tucson, seven sparsely populated counties, and nine reservations.

Through Four Rivers, SALA serves tribal members on or near nine reservations including: Ak-Chin, Fort Yuma, Gila River, Fort Apache, Fort McDowell, Salt River, Camp Verde, Cocopah, and Pascua Yaqui. On average, more than fifty percent of SALA=s on-

reservation populations live in poverty.

For LSC=s convenience, a map setting forth the service areas of the five programs is attached hereto as Exhibit 1. These five programs presented an overview of their programs and Arizona=s unique demographics and geography to the LSC Board in early April, 1998.

In addition to the five LSC funded programs, Arizona has numerous non-LSC funded programs. These include but are not limited to the Arizona Senior Citizens Law Project, which provides free legal assistance to people over the age of sixty; the Arizona Center for Law in the Public Interest and the Arizona Center of Disability Law, which provide high impact litigation support in order to promote equal access to justice, fair and equal government benefits and services, and equal protection under the law; the Arizona Justice Institute, which conducts advocacy on a wide range of issues and provides support, training and counsel to legal service providers; the Florence Immigrant and Refugee Rights Project and the Tucson Ecumenical Council Legal Assistance, which provide legal assistance to immigrants; the Homeless Legal Assistance Project, Southern Arizona People=s Law Center, Guadalupe Law Center, and the law school clinics at the University of Arizona and Arizona State University, which serve homeless and low-income clients on a variety of legal needs.

There are numerous other programs throughout the State that provide legal services. Some of these programs exist on budgets of just a few thousand dollars or less. These programs survive on various sources of funding, including grants from the Arizona Bar Foundation (IOLTA), local bar associations, United Way funding, private donations, and donated attorney time.

Historically, there has been communication and cooperation between the federally funded programs and the non-funded programs. There has not been a great deal of communication amongst the non-funded groups. As set forth below, cooperation between the various programs

has increased recently, especially since the time the 1996 State Plan was submitted.

III. 1998 ARIZONA STATE PLANNING PROCESS

A. The Previous Arizona State Planning Process

In 1995, LSC requested that each state convene a statewide conference to consider its legal services delivery system. In response to this request, the directors and staff from each of the then six federally funded legal services programs in Arizona began a series of meetings during 1995 to discuss the LSC request and the nine specific issues identified by LSC in its request. Based on these meetings, an interim report to LSC was submitted by the State Bar Legal Services Committee in October, 1995.

Arizona then convened a one day statewide conference in December, 1995. The conference included judges, private lawyers, public lawyers, legal services providers, representatives from the State Bar of Arizona, Arizona Bar Foundation, and other interested parties. The conference invitees broke into groups and considered various issues relating to finding new *pro bono* and financial resources for legal services, the design of a more integrated statewide delivery system, and ways to ensure efficient, effective, high-quality representation for low-income clients. At the conclusion of these deliberations, the entire group convened to compile the reports and integrate them into what became the final 1996 State Plan.

The 1996 State Plan was finalized by the State Bar Legal Services Committee and approved by the State Bar of Arizona Board of Governors. It was submitted to LSC in early 1996.

The 1996 State Plan specifically responded to each of the nine topics identified by LSC in its Program Letter. The 1996 State Plan found that the current legal services programs and the *pro bono* network provides an adequate framework for a statewide legal services system.

However, the 1996 State Plan identified specific recommendations to further enhance the Arizona system, which included expansion of delivery systems, a focus on corporate involvement and court reform, and more cooperation between all of the diverse legal services organizations in Arizona. Further, with respect to configuration, the 1996 State Plan recommended that the Legal Services Committee should continue to consider consolidation of Arizona legal services programs, and also ways to increase cooperation between LSC programs. Shortly after the 1996 State Plan was submitted, and as a result of the planning process, Coconino Legal Aid merged with and became part of DNA, reducing the number of federally funded legal service providers from six to five.

The 1996 State Plan contained numerous other recommendations and goals, with the majority of these issues to be addressed by the State Bar of Arizona Legal Services Committee. The Arizona Legal Services Committee oversees the delivery of legal services in Arizona. Its members come from a diverse cross-section of the legal community, including public, private and public interest attorneys, non-attorney community advocates, civic leaders, and representatives of client constituencies. The Legal Services Committee reports to the Arizona Board of Governors, which is the governing body of the State Bar of Arizona, elected by its peers to operate the Bar. The Arizona Legal Services Committee has always been proactive in addressing legal services issues, but with the submission of the 1996 State Plan, took on an even greater role in addressing legal service delivery issues.

This involvement by the Legal Services Committee was especially necessary because in addition to the configuration issue, the 1996 State Plan included plans for increasing *pro bono* involvement, increasing access, increasing efficiency, increasing accountability, and developing resources. As set forth in more detail in Section IV below, from 1996 to today the Legal Services Committee has continued to address the issues and goals identified in the 1996 State Plan, and has helped create tangible results such as unprecedented cooperation between the Arizona Bar

Foundation, the Arizona Coalition Against Domestic Violence and the federally funded state programs in a joint request for federal funds; a concentrated statewide effort to develop resources via a cooperative effort to obtain public funds from the Arizona legislature (which has resulted in a \$100,000 appropriation for legal services); and the development of a statewide hotline for the delivery of legal services to senior citizens. Additionally, the Legal Services Committee is directly responsible for the State Bar's implementation of a voluntary *pro bono* survey, a *pro bono* Adues check-off@ program that generates \$79,000 a year, and the creation of the Sharon A. Fullmer Legal Aid Attorney Award that is presented at the State Bar Convention.

B. 1998 Planning Process

Because Arizona's 1996 State Plan required the Legal Services Committee to continually address most of the issues identified in LSC Program Letter 98-1, the Legal Services Committee continued to be the focal point for Arizona's planning process. After receipt of Program Letter 98-1, the Legal Services Committee discussed LSC's request, and directed a subcommittee to meet, analyze LSC's request, and suggest a framework for Arizona's response. The subcommittee consisted of the Legal Services Committee chairman (an attorney in private practice), the directors of the five federally funded programs, representatives of the State Bar and Bar Foundation, including the Executive Director, and a representative of one of the independent, non-federally funded legal services providers. During the entire process, the subcommittee reported regularly to the Legal Services Committee.

The subcommittee met several times during mid 1998 and developed a framework for Arizona's response. The subcommittee members agreed that Arizona's response to LSC must include input from a wide range of individuals involved in and affected by the delivery of legal services. The subcommittee developed a three step process to create a thorough response which would address LSC's questions and would incorporate diverse input.

First, in order to gather the relevant information and synthesize it into a document form, the subcommittee members developed a working draft response to LSC=s Program Letter. The draft response was a collective effort by the various subcommittee members, who were each responsible for producing part of the draft and reviewing the remaining parts.

Second, review of the draft and discussion of the contents of Arizona=s response was the topic at the Legal Services Committee meeting held on September 19, 1998. In order to increase the breadth of participation into this part of the state planning process, in addition to the regular members of the Legal Services Committee, the Committee invited additional individuals to the September 19 meeting and sought their input into this response. Additional individuals who participated in the September 19 discussion of this response included representatives of client groups, political leaders and representatives of client advocacy groups. (*See* list of participants, attached hereto as Exhibit 2).

Third, the Legal Services Committee intends to hold two or more meetings around the state in October and/or November 1998, so that other interested parties can discuss this response. These meetings are aimed primarily at client and client advocacy groups who may not have had the opportunity to participate in this process to date. At the conclusion of these meetings, the Legal Services Committee intends to discuss the results of the meetings and may submit a supplemental report to LSC.

The Committee further recognizes that finalization of this document should not end the discussion regarding the seven planning consideration points identified by LSC. The Legal Services Committee plans on making each one of the seven topics the main focus of a meeting of the Legal Services Committee in 1998-99. The Committee will appoint a study group to examine each topic and may further supplement this report with its findings and recommendations on each topic in the next year.

IV. STATE PLANNING ISSUES

A. Intake, Advice and Referral

Arizona's intake, advice and referral systems are generally coordinated within appropriate geographical regions to provide access to eligible clients. This is true despite the unique and sometimes difficult geography and demographics present, creating a vast number of special population clients throughout the state. For example, because of the remote locations of Arizona's Tribal areas and the fear of discovery for many documented and undocumented border residents and migrant farm workers, access to legal services becomes more difficult. Members of each Tribal area speak a separate language and many speak only limited English. Furthermore, Arizona's elder population has ballooned during the past several decades and presents special challenges for access. To compound matters, resources are scarce and diminishing with reductions in LSC funding.

Despite these extraordinary challenges, legal services programs in Arizona have adopted techniques which generally ensure equal access to legal services in Tribal areas. Most Reservation residents live in geographically remote locations and do not have telephones, reliable transportation, or home mail delivery. Public transportation is non-existent. However, all Arizona programs provide successful legal services access to Reservation residents through bilingual staff members, strategically placed offices and wide-area publicity regarding the availability of services. These offices and special projects such as the Native American Protection and Advocacy Project are geographically dispersed throughout an enormous service area which makes them relatively easy for clients to access and allows them to avoid driving several hours to a border town.

Legal services programs maintain multiple offices (five on the Navajo Reservation) on at least seven different reservations and provide services for residents of at least ten more, covering every Reservation in the state. In addition, the legal services programs cultivate relationships

with the local Tribal governments to assist with delivery of services. At least five Tribes contract with legal services programs to provide direct services. Service delivery on reservations requires the unique adaptations employed in Arizona.

Several programs aggressively represent migrant farm workers and members of the immigrant population. For example, toll-free telephone access is available on a statewide basis for farmworkers five days a week. In addition weekly outreach visits to sites frequented by the migrant and seasonal farm workers are made by legal services staff members to meet with clients and distribute community education materials. In addition three offices are located within a mile of the border in San Luis, Nogales, and Douglas. Experienced staff members are bilingual in Spanish and English to assist with language barriers.

For the elder population, SALA in the past operated a statewide toll-free legal hotline to provide free legal services to anyone over sixty (60) years old. This system was funded by the U.S. Administration on Aging. This program has recently been re-established and will be funded with legislative money provided to the Supreme Court of Arizona. Legal hotline and intake attorneys completed over 30,000 cases during the past five years. Experienced attorneys staff the hotline forty hours per week and provide direct advice or appropriate referrals to clients.

Access barriers are overcome for other clients because all offices are handicapped accessible, bilingual staff speak the languages most commonly spoken in each area, and accommodations for other access issues such as the hearing impaired are also addressed. Many services are offered over the telephone with toll-free numbers or off-site to make services more readily available to all clients regardless of handicapping condition.

For all other populations, Arizona's legal services programs provide both telephone and walk-in intake access. For example, the SALA intake system was modeled after the Elder Legal Hotline with an overall goal to provide legal advice, legal information and brief services to clients both by phone and in face to face consultations with intake attorneys. The intake

department is fully computerized with each staff person having access to a CPU in a networked system. After determining eligibility, a staff member opens a case and enters all information required by LSC including demographics, financial information and case type. Most offices use Kemps Caseworks as a case management database system for tracking cases. Conflict databases immediately identify ethical conflicts.

In all rural offices intake procedures are designed to maximize resource use at the point of first contact. Many clients can be served with advice only at intake; those with more complex problems are referred to advocates. Emergencies are give priority.

All programs strive to ensure that intake provides some information to all individuals seeking assistance. Non-eligible clients are referred to private attorneys, Lawyers= Referral Programs, and the Reduced-Fee Panels. Referrals are also made between LSC funded programs and to a wide variety of both social service and legal service organizations, e.g., the Office of the Attorney General. Information and referrals are provided to thousands of clients each year.

All cases opened and closed during any given day are reviewed by supervising attorneys. Intake attorneys are seen as generalists handling a wide variety of cases although intake attorneys also have their areas of expertise. The intake department functions as a team; intake staff and attorneys consult with each other throughout the day and this continuous communication is important to the consistent and effective delivery of services.

The Committee believes that the strength of the system as described above lies in the local control and coordination of the system. The Committee believes that a more centralized intake system would not necessarily improve the overall system and could adversely impact the special populations by creating a more generalized approach. Members of these specialized client communities identify with the local presence and control of the current programs. A generalized approach would dilute what is now a specialized yet reasonably coordinated approach. However, based on successes such as the elder law hotline, the Committee also

recognizes that there can be advantages to centralizing intake procedures. The Committee intends to continue to explore this issue.

B. Technology

All LSC funded programs use computers and employ the use of technology to expand and enhance the delivery of legal services to the low income population. All five of the programs have internet access. All staff of CLS, DNA and SALA have computers on their desks. CLS has established program-wide e-mail and direct connections to Lexis/Nexis and Handsnet for all advocates.

As set forth previously, based in part on funding from the state, SALA established a statewide hotline to provide access to legal advice and brief services to the ever increasing senior population.

CLS staff worked closely with the Arizona Supreme Court in the development of the Maricopa County Self-Help Center and kiosks that permit open and public access to court approved pleadings at various sites around the state and from personal computers with internet access.

However, the two hundred plus personnel who provide legal services to the poor through LSC funded programs are scattered throughout Arizona. Some are in communities that have limited access to telephones and other communication infrastructures. Therefore, until that infrastructure itself is available, the development of technological tools to coordinate statewide communications will continue to be a challenge.

Recognizing the limitations discussed above, the Committee is developing a proposal whereby the Arizona Justice Institute would expand its services to include the solicitation and collection such materials on computer disk, and then index, organize and place such materials on one data base. A hard copy of the index and the computer disk data base would be published and

distributed to the legal services programs. Such materials could be loaded on computers accessible to the general low income public for use and printing at multiple site across Arizona, including public libraries, and legal aid offices. In addition a Notice could be provided the various access sites that explained how a hard copy of any materials could be mailed to client and the shipping charges if any, could be obtained if the persons were unable to operate the system.

The same database and index could also be loaded onto the existing Arizona Justice Institute web cite, and be made available to the general low-income public. The site would include simple instructions on how to use the site, or how to print the materials at remote client access sites. In addition the site could promote no-cost access to remote clients by means of remote client access sites, where a public computer (such as one at a library) was located equipped with speakers, microphone and a camera, allowing in person meetings between rural clients and urban *pro bono* attorneys.

In addition the web site could include a list of cases that could be taken by *pro bono* attorneys. The cases described only by number would explain the type of case, the location, and time lines involved. If an attorney was interested the site would include an e-mail opportunity to contact a centralized *pro bono* referral location, who would arrange the referral.

The Committee believes that the plan set forth above would be a good beginning. However, significant technological advancement and coordination between the programs will likely only be accomplished through additional resource development.

C. Access to Courts, Self Help and Preventive Education

The major barriers facing low-income persons in gaining access to justice in Arizona include lack of knowledge regarding their legal rights and remedies, geographical distances, and linguistic and cultural differences. A significant jurisdictional barrier is presented by the fact that Arizona contains 17 distinct tribal court systems, each applying its own substantive law and

procedural rules. Because Arizona has been a state for only about three-quarters of a century, the relationship between state and tribal fora is still developing. Indeed, there is an Arizona state judicial committee which is wrestling with fashioning an appropriate rule for recognizing tribal court judgments. Representatives of LSC grantees have participated in that process.

One of the most significant factors for clients= accessing legal services, and thereby the courts, is the existence of a legal services office in or near their communities. Because of the size of Arizona and the relative isolation of some of its communities, it is impossible to provide a legal services office to every community. However, Arizona legal services offices are dispersed throughout the state at virtually every site of population concentration. Admittedly, some of these Apopulation concentrations,@ particularly on reservations, may consist of only a couple of thousand persons, but placement of offices there ensures access for linguistically, culturally, or jurisdictionally distinct populations. Because particular attention has been given to populations outside of Amainstream@ Arizona, LSC funded programs have attorneys and tribal court advocates admitted to practice in every judicial forum in the state.

While programs work with local courts and social service providers to obtain space to conduct outreach in other communities, without a substantial increase in funding for additional staff and office infrastructure, the current placement of legal services offices appears to be effective under the circumstances.

The term Aaccess to the courts@ has taken on an expanded meaning over the past few years with developments in technology. The Arizona Supreme Court has been a leader in developing Akiosks@ for clients to access court-approved pleadings. This AMaricopa County model@ will be replicated by the other Arizona programs as appropriate and as funding is developed. Modifications have been made to the forms provided to conform to local practice rules and plans are under way to include tribal court pleadings at some of the sites.

All of the Arizona legal services programs engage in preventive legal education in

various forms and share the materials they develop with other LSC grantees where appropriate. For example, CLS developed materials describing the changes in welfare law and the responsibilities of recipients in light of the changes. These materials were distributed statewide through the participation of staff from other legal service programs in the Arizona public benefits task force. Clients will benefit from a more focused and coordinated effort to develop and distribute materials of statewide import. This effort will be spearheaded by the Arizona Justice Institute which has agreed to place a catalogue of available community education materials on its web site. This regularly updated resource will likely be available by early fall of this year.

In addition to the development of statewide preventive education materials, each program addresses the needs of special populations in various ways. Bilingual materials and presentations are used when necessary. Particularly for elderly Native Americans, written community education efforts are almost useless. Most have had little or no formal education in English and most do not have a native written language. For example, written Navajo was developed by Franciscan missionaries when they came to the reservation in 1902 and has been taught to only a small percentage of the population. The legal service programs have developed particularized radio or video presentations in clients' native languages to provide preventive legal education and advice.

Again, because the Arizona programs practice in a number of jurisdictions, they have tailored many of their community education materials to the particular laws and procedures of those jurisdictions. In sum, the Arizona LSC grantees cooperate and share community legal education resources for issues that are amenable to such an approach and, at the same time, utilize their particular expertise for development of those materials when needed.

Because Arizona has not adopted a uniform system of statewide pleadings, the legal services programs have had to draft *pro se* pleadings acceptable to their local courts. Additionally, they have worked with the tribal court judges to develop forms acceptable in their

courts. While this may seem to be a burdensome task to an outsider, it has been a necessary adjustment they have had to make to the environment in which they work and in which their clients live. The involvement of staff of the legal services programs in State Bar committees and task forces is seen as a forum for raising issues such as uniform pleadings. The LSC programs and others concerned with increasing self-help opportunities acknowledge the difficulty of this task, but they are committed to pursuing it.

While acknowledging the need for continued, and increased, collaboration and cooperation on issues and processes that affect access on a statewide basis, the Committee simultaneously recognizes a statewide obligation to develop and enhance access for clients who because of particular geographic, linguistic or cultural features are best served by providers who have developed a rapport with and understanding of those communities.

D. Coordination of Legal Work and Training

Historically, the coordination of legal work and training among legal services providers in the state has been excellent. Statewide taskforces coordinated by Arizona Statewide Legal Services were established to maintain regular communication and the coordination of training and advocacy on significant issues facing low income Arizonans. Staff from each program participated in establishing the agendas, making presentations and conducting training. Each year staff from all programs were surveyed to establish training priorities for the coming year.

In 1996, due to the loss of LSC funding, Arizona Statewide Legal Services closed. In mid-1996, the Arizona Justice Institute (AAJI) was established, in part, to assume the training and coordination activities previously conducted by Arizona Statewide Legal Services.

Both in 1996 and 1997 AJI surveyed the LSC-funded projects to determine which services and priorities were essential for legal services staff to receive to have in carrying out their day-to-day representation of low-income clients. These surveys identified the highest

priorities as (1) the continuance and updating of the ARIZONA LEGAL SERVICES PRACTICE MANUAL; (2) legislative and administrative advocacy and monitoring; and (3) convening and coordinating task forces for domestic relations, public benefits and housing.

AJI has since taken steps to meet these needs and establish a coordinated education and training program. First, AJI has completed supplements updating parts of the ARIZONA LEGAL SERVICES PRACTICE MANUAL, concentrating on the Practice and Housing sections of the Manual. Updates on the Immigration and Public Benefits sections of the Manual are also in progress.

Second, AJI has been active in establishing advocacy and monitoring programs and training, as well as task force establishment in training. In late 1996, AJI, in cooperation with the New Mexico Center on Law and Poverty and the National Immigration Law Center, hosted a two-day conference on welfare reform's impact on legal immigrants and workers' rights.

During 1997, AJI convened the Public Benefits Task Force twice to provide training, coordination and case strategy discussions among legal services staff and community-based advocacy organizations. The Domestic Relations Task Force was convened in mid-1997 to review the significant changes in child support, domestic relations, welfare and domestic violence legislation enacted by the Arizona Legislature, for both legal services staff and domestic violence shelter program staff. A two day Basic Legal Advocacy Skills Training course was conducted in the fall for new attorneys, paralegals and tribal court advocates. A Consumer Law Task Force was convened in August.

A planning committee is being established to develop an agenda to convene legal services staff statewide to provide training opportunities for attorneys, paralegals and others. The target is to have a statewide conference in late 1998 or 1999.

The Legal Services Committee, legal services programs and the State Bar will continue efforts to develop *pro se* materials for distribution at local offices, libraries and the AJI website.

E. Private Attorney Involvement in Arizona

Arizona attorneys reported providing 361,800 hours of *pro bono* service during 1996, for an average of 62 hours per year per attorney. While this evidences a strong commitment on the part of the private bar, the Committee recognizes that continuing efforts to increase private attorney involvement are crucial to the delivery of legal services in Arizona.

While as a practical matter, most of the programs= individual recruitment efforts have focused on recruitment within the programs= own service areas, the Committee believes that the current system for recruitment and training of private attorneys has been extremely effective. One of the reasons for this success has been the cooperation between the State and local bar associations and the legal services programs.

For example, the State Bar and legal services programs provide information about *pro bono* opportunities to all newly admitted members of the Bar twice a year along with information about contact people and ways to volunteer for each of the programs in the state. At each swearing in ceremony, the Chief Justice of the Supreme Court addresses the need for and rewards of *pro bono* service. The Chief Justice is also expected to sign a *pro bono* recruitment letter to be used in a statewide campaign urging more attorneys to volunteer to help people with low and moderate incomes. Legal services, *pro bono* and modest means programs will work cooperatively on this campaign.

In Maricopa County during the past three years, the Maricopa County Bar Association and the Volunteer Lawyers Program has developed an effective new recruitment mechanism by giving members an opportunity to enroll with VLP when paying their county bar dues. The annual A1 Campaign@ provides a check off box on the county bar dues form that attorneys can check to agree to handle one *pro bono* case during the year. Over 300 attorneys sign up through this campaign each year. Bar associations also promote *pro bono* by offering free or reduced cost Continuing Legal Education training to attorneys who agree to accept a *pro bono* case in a

particular area of law or who provide a certain number of hours of *pro bono* service. The Maricopa County Bar Association has provided this waiver of CLE registration fees to help the Volunteer Lawyers Program recruit attorneys for guardianships, landlord-tenant cases, dependencies, and children=s SSI appeals and also provides a discount on any CLE for any attorney who accepts a VLP case.

Specialty bar groups and bar committees have been helpful in recruiting attorneys, especially in Maricopa and Pima Counties. Recently, the programs cooperated to prepare a mailing to all certified tax specialists in the state to recruit attorneys to help farm workers families who have problems with the I.R.S., especially regarding earned income credits. The Volunteer Lawyers Program in Maricopa County works closely with the Young Lawyers Division of the Maricopa County Bar Association, the Committee on Children, the Domestic Violence Committee, the Family Law Section, and the Lawyer Referral Service.

Members of the Judiciary in Arizona have assisted with statewide recruitment efforts and are supportive of local recruitment. A number of retired judges are active in planning and providing *pro bono* services and recruiting colleagues. The Maricopa County Superior Court Presiding Judge appointed a *Pro Bono* Committee to determine ways that *pro bono* could be encouraged and supported.

Programs in Pima County and Maricopa County each select a Volunteer Attorney of the Month for recognition and publicize the selection in bar and other publications. In Maricopa County, the bar publication each month also includes a column to thank all volunteer attorneys who accept VLP cases during the month and includes a list of the volunteer attorneys and the types of cases accepted.

The programs which serve the more rural counties are faced with a more difficult task in recruiting, due to the relatively small number of private attorneys in their areas combined with sometimes vast services areas. These programs have still been effective in soliciting private bar

involvement through individual contact and recruiting.

The Committee believes that one of the strengths of the recruitment effort is the local flavor of the recruiting efforts. The programs have successfully tailored their efforts to reflect local needs and individual specialization. Because the State Bar already is in the forefront of the recruiting process, the Committee believes that any centralization of the recruiting efforts will be of no particular benefit. Further, any configuration of programs that lessens the local control and coordination of these efforts would likely adversely affect recruiting efforts.

F. Diversified Funding and Coordination of Resource Development Efforts

The financial resources available for legal services in Arizona have diversified and increased since the 1996 Arizona State Plan. Efforts have helped modestly, but significantly, expand legal services efforts, especially in the areas of domestic violence and elder law representation.

Prior to the creation of the State Plan, legal services programs had an almost exclusive dependence on two funding resources, LSC and the Arizona Bar Foundation (IOLTA). Some individual programs conducted their own fundraising efforts during this time or received grant money from other sources, but the amounts generated during this time substantially paled in comparison to the two major funding sources.

Since 1996, however, the amount of private fundraising for legal services has increased dramatically. The Arizona Bar Foundation has been at the forefront of the fundraising efforts among the private bar. During 1997, the Foundation conducted its first full-fledged development campaign and raised over \$180,000 in contributions and pledges from private attorneys. These efforts will continue in future years to bring in even more money for not only the Foundation, but also the many legal services programs throughout Arizona.

The previous State Plan mentioned not only the importance of private bar development campaigns, but also the involvement of the State Bar of Arizona in organizing efforts to increase

resources for legal services. In this regard, the State Bar implemented in 1997 a *pro bono* dues check-off whereby all Arizona lawyers have the option of allowing 1% of their dues to go to the Arizona Bar Foundation to fund *pro bono* programs throughout Arizona. During the first two years of operation, the dues check-off has provided approximately \$60,000 of new funding for *pro bono* legal services.

The dues check-off has been an important symbolic gesture on the part of the State Bar for legal services. More significant, however, has been the legislative efforts sponsored by the State Bar of Arizona (through the Committee) and the Arizona Bar Foundation to secure state funding for the delivery of legal services. In 1997 and 1998, the Bar's legislative agenda included a \$1 million appropriation for domestic violence advocacy, with \$500,000 going directly to legal aid programs. The domestic violence legislation has come close to becoming law through both a filing fee surcharge in 1997 and an attempt to take unclaimed lottery prize money in 1998. Unfortunately, various setbacks have prevented this legislation from becoming law, but advocates are confident of its eventual passage. It is important to note that the LSC funded programs worked together to assist the Legal Services Committee in its attempts to obtain this funding.

Moreover, these efforts reaped their first rewards this year when the Arizona Legislature made its first ever state appropriation for the delivery of civil legal services to the poor in the form of a \$100,000 appropriation for an elder law hotline. This legislation was initiated by the Arizona Bar Foundation and the State Bar of Arizona (again through this Committee) with crucial support from the LSC funded programs, the Arizona Justice Institute, the Arizona Supreme Court, the AARP and others. The hotline will help provide free legal services to any Arizona resident over the age of 60. The Committee believes that with this first success, a funding precedent has been set that will allow future successful fundraising efforts.

Perhaps the most significant recent source of resources, however, in terms of total dollars

has been the rise in block grant dollars for domestic violence advocacy. Since the passage of the Violence Against Women Act (VAWA) and the STOP grant program, over \$500,000 of new federal dollars has made its way into the DNA and Southern Arizona Legal Aid programs. Another \$350,000 may also make its way into Arizona as part of an unprecedented effort. This effort resulted in a joint application from the Arizona Bar Foundation to the U.S. Department of Justice for domestic advocacy funding for all five federally funded legal services programs and ten domestic violence shelters. This grant is truly remarkable in that for the first time, all of the LSC-funded programs have collaborated not only with each other on major grant, but also with an important client constituency group.

Lastly, a number of private foundations have increased or recently started to make contributions to legal services programs in Arizona. In 1998, for example, the Arizona Bar Foundation received a \$40,000 grant to support a *pro bono* effort in conjunction with the Florence Immigrant Rights and Refugee Project. This funding came from the Open Society Institute through the American Bar Association. Southern Arizona Legal Aid also received in 1998 a \$40,000 grant from the Open Society Institute and the National Association of Public Interest Lawyers to hire an additional staff attorney. In both cases, matching funds were delivered that made these projects feasible. In addition to these grants, legal services programs continued to receive funding from the United Way and other sources as an important resource.

The Committee believes that Arizona legal services programs have made dramatic efforts in the past two years to diversify and increase funding sources. These efforts often were initiated as a result of the 1996 State Plan with organized leadership from the Bar as well as an unprecedented amount of creativity and cooperation among providers.

G. Configuration

As set forth above, the current configuration of LSC funded programs consists of five

programs, each with its own distinct territory. Consistent with the conclusions set forth in the 1996 State Plan, the Committee believes that the current configuration provides an adequate framework for the delivery of legal services in the state. However, the Committee believes that the issue is now not what constitutes an Adequate framework, but what constitutes the *best* framework. This analysis obviously must take into account numerous factors, which include but are not limited to the six state planning issues discussed above and related factors such as geography, demographics, State Bar involvement, client community input, and the presence and effect of non-LSC funded programs.

In addition to responding to the Indicators on the configuration issue set forth in LSC's July, 1998 *State Planning Considerations*, the Committee has attempted to explore every reasonable alternative with respect to the configuration issue. To accomplish this, the Committee discussed four separate alternative configurations for the federally funded legal services programs in Arizona. While other configurations might be theoretically possible, the four alternatives discussed below were deemed to be the only potentially reasonable configurations in light of the factors discussed above. The four alternatives discussed by the Committee and below in no particular order are: (1) one program which covers the entire state; (2) the current configuration of five programs; (3) four programs, created by merging either Papago or PGCLAS with one or more of the other programs; (4) three programs, created by merging both Papago and PGCLAS with one or more of the existing programs. The views of the Committee with respect to the pros and cons of each of these configurations will be discussed below.

1. One State-Wide Program

Pros C The major pro factor of a state-wide program is the centralized control and administration of a single program. A single program configuration would allow a more uniform approach to intake, technology and recruitment issues. For example, a single computer network, and thus more direct communication between offices, could more easily be created. A scenario

by which the federally funded legal services program spoke both to LSC and the public in one voice would appear to eliminate administrative time and expense. Instead of five program directors committing substantial time to funding and administrative issues, this could be centralized in one place, freeing up time for work related more to the direct representation of those in need instead of overseeing the administration of five separate delivery programs.

One program would strengthen the likelihood of cooperation with the Bar and likely the opportunities for funding since the program would speak to potential funding sources with one voice.

It appears that the one program approach has been successful in a few other states.

Cons C There appears to be no reasonable method or structure in place that could meld the existing system into one program. The five programs themselves cannot reasonably be expected to create a plan which would completely eliminate all of them in favor of one program. Further, there are no other groups in the State that could be expected to accomplish a complete consolidation. Currently, the State Bar Legal Services Committee is the focal point of the legal services discussion in Arizona. It is a reasonably effective vehicle for this discussion. However, neither the Legal Services Committee nor any other part of the State Bar has the resources necessary to involve itself in the process of consolidating five programs, with a combined budget of millions of dollars, into one program.

Additionally, one of the greatest C if not the greatest C strength of Arizona=s delivery network is the ability of the programs to serve the many different client service groups present in the state. The Committee believes that it is clear that Arizona=s demographics demand a high level of local control and decision-making in the process. Arizona has a diverse population which includes almost entirely rural counties, large metropolitan areas, and a large Native American population consisting of a number of tribes, languages and cultures. Legal services providers must be sensitive to these multiple demographics, and a program which does not

include experience and decision-making at the local level is unlikely to effectively serve the service area.

2. The Current Configuration

Pros C The current configuration works. For the most part, the current system facilitates a delivery network that provides low income persons throughout the state with broad, prompt, and even access to the legal system. The current configuration does not create any appreciable gaps in service to any group.

Without exception, each of the five current LSC funded programs have a long record of service. The executive directors and board leadership of each program have years of cumulative experience in their respective programs. From a statistical standpoint, each of the five programs serve a relatively large number of clients per funding dollar. From a local control standpoint, each of the five programs maintains a strong presence in their service areas. This includes some service areas which spread over an extremely large geographical service area, incorporate urban and rural areas, and various Native American Tribes.

Additionally, as set forth throughout the above analysis, the cooperation between the five programs has greatly increased in the last two years, and the trend appears to be that the programs are increasing the occurrence and magnitude of joint efforts both in funding and service. For example, this year the five programs submitted a joint bid for federal Violence Against Women=s Act legal advocacy money. The programs have all participated in a joint effort with the Legal Services Committee to raise money at the legislative level, and were successful in obtaining a \$100,000 allocation for the establishment of a statewide elder hotline. The program directors have regularly met during the planning process to discuss the framework for this response, and the issues discussed above.

Finally, any forced consolidation will present difficult logistical and personnel issues, and will likely initially create additional costs.

Cons C The current five program configuration is not the configuration that would be created if the configuration was being created today from scratch. Overall, the current configuration carves the state up in an uneven, sometimes awkward manner. For example, one of the programs (Papago) serves a single tribe, while another program (DNA) serves multiple tribes in a vast area covering parts of three states. Further, there is no unique quality to Pinal and Gila counties that would necessitate a separate program to cover those two counties. It is inescapable that the current configuration does not, in isolation, effectively distribute the programs around the state.

Further, under the current configuration, there is little communication and coordination between programs in substantive areas such as intake, technology, research and attorney recruitment. The current configuration results in duplications of capacities of administration.

3. Merging or Eliminating One Program, Leaving Four

Pros C Some of the benefits of associated with establishing one state program, i.e. more streamlined intake and delivery procedures, better use of technology, and better cooperation and communication between programs would likely be realized by reducing the number of programs. It is difficult for the Committee to project, however, the degree of benefit that would occur as a result of reduction of the number of programs from five to four. There still would not be streamlined procedures among the remaining programs in the areas of intake and technology. While reduction from five to four necessarily opens up cooperation and communication lines between the two programs that merge, it does not appear that it would have any appreciable effect on communication with the other programs.

The Committee has not attempted, and likely does not have the resources to conduct an in-depth analysis of each program in order to draw conclusions regarding each program's effectiveness. Papago is the smallest of the five state programs and provides service to a discrete group (the Tohono O=Odham Tribe). It closed 670 cases in 1997 and received almost \$208,000

in funding, making it far and away the smallest of Arizona=s LSC funded legal services programs. Applying a simplistic analysis on an economies of scale basis, Papago=s program is the most likely candidate to merge with another program. SALA=s nearby location and familiarity with Native American issues makes it the obvious candidate for such a merger. Again, the Committee stresses that the above recognizes basic facts regarding the size of Papago versus the size of other programs, and does not reflect an analysis of the program=s effectiveness in providing legal services.

Merger by PGLCS into one or more other programs would present a more difficult logistical analysis. PGCLAS is sandwiched between Arizona=s major population centers (Phoenix and Tucson). The service area is actually spread over parts of several counties, and incorporates an office on the San Carlos Native American Reservation. It closed nearly 2,500 cases in 1997, and received more than \$391,000 in funding. Because its size, and because it serves a diverse population in diverse settings, any merger involving PGLCS would not be easily accomplished. However, as set forth above, a simplistic economies of scale analysis suggests a merger would eventually result in benefits such as a reduction in the duplication of administration, sharing of technology, etc.

Cons C Even if the current configuration appears to carve up the state in an awkward manner, there is a reason that the current configuration has been in place so long C it has worked reasonably well. There is no guarantee that merger of one program into another will result in cost savings. While a simplistic economies of scale analysis suggests this is the case, it may not work in practice. For example, if one of the programs has technology, procedures or a level of service that is substantially different from the other, the larger program which incorporates the smaller one will need to expend additional resources, at least in the short term, to bring uniformity to its program. Moreover, DNA and SALA have reported that the merger of smaller programs into their larger ones in the last five years, while bringing an increase in the quality of

services provided, has not resulted in cost savings to the larger programs.

Any merger would likely dilute the element of local control. Each of the programs have developed a familiarity with the culture, language, legal codes and economic and social conditions of unique client communities. They have long histories within their service area, and they have grown with and tailored their delivery systems to the clients they serve. Client service groups are concerned that the loss of local administrative control will mean less service to the rural areas, and less of a voice for those areas.

Elimination of programs create potential personnel issues. Directors who have run these programs either somehow become a part of a larger program, or leave.

4. Merging or Eliminating Two Programs, Leaving Three

Pros C the pros of three programs are essentially the same as the pros of four programs, only the benefits would presumably be greater because of the elimination of additional administration, and the potential for more cooperation between similar size programs who have distinct service areas.

Cons C the cons of three programs are the same as set forth above in the four program analysis, except it appears that the cons would be magnified. There would be a greater loss of local control. Eliminating two programs would necessarily create logistical issues related to the merger, including personnel issues. Again, the projected cost savings from consolidation did not occur in practice when smaller programs have merged into larger ones in the past.

5. The Committee's Conclusion Re Configuration

After a full and careful analysis of the seven functional capacities and coordinated efforts identified by LSC, with a special emphasis on the configuration issue, the overwhelming consensus of the Committee was that the current configuration is the best configuration for the delivery of effective legal services in Arizona. The Committee has recognized and discussed above the strengths and weaknesses of the current system and believes there is room for

improvement in practically every aspect of the delivery system. However, the Committee believes that the improvement which is realistically possible, in light of the resources available and the unique nature of Arizona=s population and geography, is best accomplished via the current system. The Committee is committed to examining Arizona=s Plan on a continuing basis, and expects to supplement this document in early 1999 with a report on the statewide comments to this Plan.

The Committee fully recognizes that LSC is at least considering elimination of smaller programs throughout the country. The Committee urges LSC to discuss with the Committee any proposed configuration changes before any decision is actually made. The Committee believes that Arizona presents unique issues and that elimination of any program based only on a Aone size fits all@ approach may not accomplish the goal of effective delivery of legal services to the poor that the Committee and LSC share.